



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Kathleen Clarke
Executive Director

Robert L. Morgan
State Engineer

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April 16, 2001

MR. CHARLES ROSS
BARTON DITCH
355 E 300 N
BEAVER, UT 84713

Dear Mr. Ross:

The Beaver River Commissioner, Ronald Roberts, has indicated he is unable to regulate the water diverted into the Barton ditch located on the Beaver River, in Section 25, T29S R8W, SLB&M because of the lack of a functional headgate. Section 73-5-4 of the Utah Code Annotated, 1953 as amended, states in part:

"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. Such controlling works or measuring device shall be of such design as the state engineer may approve and so that the same can be locked and kept set by him or his assistants... If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct such headgates, caps, valves, flumes or measuring devices after thirty days notice to do so by the state engineer, the state engineer may forbid the use of water until the user thereof shall comply with this requirement, or the state engineer may proceed to construct or install or cause to be installed such controlling works or measuring devices, and the cost of the same shall be a lien against the lands and water rights served thereby, and the state engineer is authorized to bring such action in the name of the state to foreclose such lien."

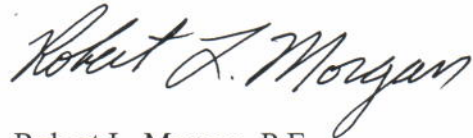
Therefore, you are hereby notified that you need to repair or replace the headgate on the Barton ditch prior to **May 15, 2001**. We would recommend that you talk with the commissioner to see what he would recommend be done in your particular situation.

Your diversion will be inspected for compliance. If it is not in compliance, it will be tagged by the river commissioner. An order to cease the use of water will be issued and the diversion will be closed and locked. In situations where the diversion cannot be closed, the State Engineer will seek a court order requiring the use of water be ceased until such time as the control structure and measuring device are installed and working properly.

This letter commences informal adjudicative proceedings to be conducted pursuant to Rules R655-6 of the Administrative Rules of the Division of Water Rights.

Thank you for your cooperation in attending to this matter in a timely manner. If you have any questions concerning this notice please contact Kerry Carpenter ,Regional Engineer, at 586-4231 or Lee Sim, Assistant State Engineer, at 538-7380.

Sincerely,

A handwritten signature in cursive script that reads "Robert L. Morgan".

Robert L. Morgan, P.E.
State Engineer

RLM:GA

cc: Lee Sim
Kerry Carpenter
Ronald Roberts, Commissioner